

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-NINTH LEGISLATURE

SIXTY-SEVENTH LEGISLATIVE DAY
THURSDAY, MARCH 15, 2007

Senate Chamber

At the request of President Pro Tempore Geddes, Senator Little called the Senate to order at 9:30 a.m.

Roll call showed all members present except Senator Bastian, absent and formally excused by the Chair; and Senators Burkett, Cameron, McGee, and Stennett, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Logan Smyser, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 14, 2007, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Burkett, Cameron, and Stennett were recorded present at this order of business.

March 15, 2007

The JUDICIARY AND RULES Committee reports that **S 1228** has been correctly printed.

DARRINGTON, Chairman

S 1228 was referred to the Finance Committee.

March 14, 2007

The JUDICIARY AND RULES Committee reports that **S 1186, S 1187, S 1188, S 1189, S 1190, S 1191**, and **SJM 107** have been correctly enrolled.

DARRINGTON, Chairman

The Acting President announced that Enrolled **S 1186, S 1187, S 1188, S 1189, S 1190, S 1191**, and **SJM 107** will be held at the desk for the signature of the President Pro Tempore and when so signed will be transmitted to the House for the signature of the Speaker.

March 14, 2007

The FINANCE Committee reports out **H 291, H 292**, and **H 293** with the recommendation that they do pass.

CAMERON, Chairman

H 291, H 292, and **H 293** were filed for second reading.

March 14, 2007

The STATE AFFAIRS Committee reports out **H 223** and **H 248** with the recommendation that they do pass.

McKENZIE, Chairman

H 223 and **H 248** were filed for second reading.

March 14, 2007

The STATE AFFAIRS Committee reports out **H 123** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

McKENZIE, Chairman

There being no objection, **H 123** was referred to the Fourteenth Order of Business, General Calendar.

March 13, 2007

The TRANSPORTATION Committee reports out **H 42** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

McGEE, Chairman

There being no objection, **H 42** was referred to the Fourteenth Order of Business, General Calendar.

March 14, 2007

The JUDICIARY AND RULES Committee reports it has had under consideration the Board of Commissioners of the Idaho State Bar appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Judge Ronald J. Wilper to the Idaho Judicial Council, term to expire June 30, 2007.

DARRINGTON, Chairman

The Idaho State Bar appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 14, 2007

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Richard Moore to the Commission on Pardons and Parole, term to expire January 1, 2010.

DARRINGTON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 14, 2007

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Linda Mitchell to the Lake Pend Oreille Basin Commission, term to expire July 24, 2009.

SCHROEDER, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 14, 2007

The JUDICIARY AND RULES Committee reports out **S 1213** with the recommendation that it do pass.

DARRINGTON, Chairman

S 1213 was filed for second reading.

March 14, 2007

The HEALTH AND WELFARE Committee reports out **H 34**, **HCR 21**, **H 167**, as amended, and **H 155**, as amended, with the recommendation that they do pass.

LODGE, Chairman

H 34, **H 167**, as amended, and **H 155**, as amended, were filed for second reading.

HCR 21 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 15, 2007

The FINANCE Committee reports out **S 1228** with the recommendation that it do pass.

CAMERON, Chairman

S 1228 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

March 13, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

**S 1015, S 1018, S 1043, S 1049,
S 1050, S 1055, and S 1057**

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

March 14, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

**S 1058, S 1060, S 1061, S 1086, S 1167,
S 1168, S 1176, and S 1177**

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

March 14, 2007

March 14, 2007

Mr. President:

I transmit herewith **H 296, H 297, H 298, H 299, H 300, and H 295** which have passed the House.

JUKER, Chief Clerk

H 296, H 297, H 298, H 299, H 300, and H 295 were filed for first reading.

March 14, 2007

Mr. President:

I return herewith **S 1192, S 1193, S 1194, S 1195, S 1198, S 1199, S 1200, S 1201, S 1085, and SJM 105** which have passed the House.

JUKER, Chief Clerk

S 1192, S 1193, S 1194, S 1195, S 1198, S 1199, S 1200, S 1201, S 1085, and SJM 105 were referred to the Judiciary and Rules Committee for enrolling.

March 14, 2007

Mr. President:

I return herewith **S 1197 and S 1107** which have failed to pass the House.

JUKER, Chief Clerk

S 1197 and S 1107 were ordered filed in the office of the Secretary of the Senate.

March 14, 2007

Mr. President:

I return herewith Enrolled **S 1019, S 1030**, as amended, **S 1053, S 1064, S 1081, S 1089**, as amended, **S 1091, S 1092, S 1095, S 1096, S 1098, S 1105, S 1109, S 1118, S 1120, S 1130, S 1133, S 1148, S 1150, S 1151, S 1160, S 1164, SCR 114, and SJM 103** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1019, S 1030**, as amended, **S 1053, S 1064, S 1081, S 1089**, as amended, **S 1091, S 1092, S 1095, S 1096, S 1098, S 1105, S 1105, S 1109, S 1118, S 1120, S 1130, S 1133, S 1148, S 1150, S 1151, S 1160, S 1164, SCR 114, and SJM 103** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

Mr. President:

I transmit herewith Enrolled **H 129, H 51, and H 52** for the signature of the President.

JUKER, Chief Clerk

The Acting President announced that Enrolled **H 129, H 51, and H 52** will be held at the desk for the signature of the President Pro Tempore, and when so signed will be transmitted to the House for the signature of the speaker for the signature of the President.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The Acting President announced that **HCR 29**, having been held, was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by President Pro Tempore Geddes, seconded by Senator Malepeai, **HCR 29** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The Acting President announced that **SCR 120** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by President Pro Tempore Geddes, seconded by Senator Stennett, **SCR 120** was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1229

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING CHAPTER 5, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-506, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR CERTAIN RESTRICTIONS ON THE IMPORTATION AND DISPOSAL OF CERVID CARCASSES OR PARTS OF CERVID CARCASSES FROM CHRONIC WASTING DISEASE ENDEMIC AREAS, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR VIOLATIONS AND PENALTIES, TO PROVIDE THAT THE IDAHO DEPARTMENT OF FISH AND GAME SHALL PUBLISH LISTS OF CHRONIC WASTING DISEASE ENDEMIC AREAS AND TO PROVIDE FOR CERTAIN RULEMAKING.

S 1229 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 296, H 297, H 298, H 299, and H 300, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

H 295, by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 282, H 283, H 284, H 285, H 286, H 287, H 288, and H 289, by Appropriations Committee, were read the second time at length and filed for third reading.

S 1138, by Transportation Committee, was read the second time at length and filed for third reading.

S 1180, by State Affairs Committee, was read the second time at length and filed for third reading.

H 99, as amended, by Business Committee, was read the second time at length and filed for third reading.

H 105, as amended, by Commerce and Human Resources Committee, was read the second time at length and filed for third reading.

H 107 and H 109, by Business Committee, were read the second time at length and filed for third reading.

S 1203, by State Affairs Committee, was read the second time at length and filed for third reading.

H 243, H 244, and H 250, by Revenue and Taxation Committee, were read the second time at length and filed for third reading.

S 1221, S 1222, S 1223, S 1224, S 1225, S 1226, and S 1227, by Finance Committee, were read the second time at length and filed for third reading.

H 81, as amended in the Senate, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

H 56, as amended in the Senate, by Agricultural Affairs Committee, was read the second time at length and filed for third reading.

H 28, as amended in the Senate, by Business Committee, was read the second time at length and filed for third reading.

H 171, as amended in the Senate, by Judiciary, Rules, and Administration Committee, was read the second time at length and filed for third reading.

S 1016, as amended in the House, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

S 1181, as amended, by State Affairs Committee, was read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The Acting President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the Acting President called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **H 74**, without recommendation, amended as follows:

SENATE AMENDMENT TO H 74 AMENDMENT TO THE BILL

On page 1 of the printed bill, delete lines 8 through 33, and insert:

"SECTION 1. That Section 63-3611, Idaho Code, be, and the same is hereby amended to read as follows:

63-3611. RETAILER ENGAGED IN BUSINESS IN THIS STATE. "Retailer engaged in business in this state" as used in this chapter means any retailer who:

(1) Engages in recurring solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state; and

(2) Has sufficient contact with this state, in accordance with the constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to customers in this state.

(3) The term includes any of the following:

(a) Any retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business or maintaining a stock of goods.

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing or the taking of orders for any tangible personal property.

(c) Any retailer, with respect to a lease or rental, deriving rentals from a lease or rental of tangible personal property situated in this state.

(d) Any retailer engaging in any activity in connection with servicing or installing tangible personal property in this state.

(e) Any retailer ~~owned or controlled by the same interests which own or control any retailer engaged in business in the same or a similar line of business in this state~~ with substantial nexus in this state within the meaning of section 63-3615A, Idaho Code.

(f) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under the provisions of this section and the retailer and any franchisee or licensee are related parties as defined in subsection (2) of section 63-3615A, Idaho Code, except as provided in section 63-3610(d), Idaho Code.

SECTION 2. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3615A, Idaho Code, and to read as follows:

63-3615A. SUBSTANTIAL NEXUS. (1) A retailer has substantial nexus with this state if both of the following apply:

(a) The retailer and an in-state business maintaining one (1) or more locations within this state are related parties; and

(b) The retailer and the in-state business use an identical or substantially similar name, trade name, trademark or goodwill to develop, promote or maintain sales, or the in-state business provides services to, or that inure to the benefit of, the out-of-state business related to developing, promoting or maintaining the in-state market.

(2) Two (2) entities are related parties under this section if they meet any one (1) of the following tests:

(a) Both entities are component members of the same controlled group of corporations under section 1563 of the Internal Revenue Code;

(b) One (1) entity is a related taxpayer to the other entity under the provisions of section 267 of the Internal Revenue Code;

© One (1) entity is a corporation and the other entity and any party, for which section 318 of the Internal Revenue Code requires an attribution of ownership of stock from that party to the entity, own directly, indirectly, beneficially, or constructively at least fifty percent (50%) of the value of the outstanding stock of the corporation; or

(d) One (1) or both entities is a limited liability company, partnership, estate or trust, none of which is treated as a corporation for federal income tax purposes, and such limited liability company, partnership, estate or trust and its members, partners or beneficiaries own in the aggregate directly, indirectly, beneficially, or constructively at least fifty percent (50%) of the profits, capital, stock or value of the other entity or both entities.

(3) The provisions of this section shall not apply to a retailer that had sales in this state in the previous year in an amount of less than one hundred thousand dollars (\$100,000).

(4) The definition of "Internal Revenue Code" in section 63-3004, Idaho Code, shall apply to this section.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval."

CORRECTION TO TITLE

On page 1, delete lines 2 through 6, and insert: "RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3611, IDAHO CODE, TO PROVIDE THAT A "RETAILER ENGAGED IN BUSINESS IN THIS STATE" MEANS ANY RETAILER WITH SUBSTANTIAL NEXUS IN THIS STATE WITHIN A SPECIFIED MEANING AND TO PROVIDE APPLICATION TO A RETAILER AND ANY FRANCHISEE OR LICENSEE AS RELATED PARTIES, WITH AN EXCEPTION; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3615A, IDAHO CODE, TO PROVIDE CONDITIONS WHEN A RETAILER HAS SUBSTANTIAL NEXUS WITH THE STATE OF IDAHO, WITH EXCEPTIONS AND TO PROVIDE APPLICATION OF THE DEFINITION OF "INTERNAL REVENUE CODE"; AND DECLARING AN EMERGENCY."

The Committee also has **S 1141** under consideration, reports progress, and begs leave to sit again.

H 74, as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

Senator McGee was recorded present at this order of business.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1138** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

S 1138 was read the third time at length and placed before the Senate for final consideration. Senator McGee arose as sponsor of the bill and opened the debate.

On request by Senator Davis, granted by unanimous consent, **S 1138** retained its place on the Third Reading Calendar for one legislative day.

Suspension of Rules

Senator Davis requested unanimous consent that all rules of the Senate interfering with the immediate passage of **S 1203** be suspended.

Senator Werk objected.

Motion to Suspend Rules

Moved by Senator Davis, seconded by Senator Stegner, that all rules of the Senate interfering with the immediate passage of **S 1203** be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that **S 1203** be read the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bair, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner. Total - 27.

NAYS --Bilyeu, Burkett, Kelly, Langhorst, Malepeai, Stennett, Werk. Total - 7.

Absent and excused --Bastian.

Total - 35.

More than two-thirds having voted in the affirmative, the Acting President declared the rules suspended and **S 1203** was placed before the Senate for consideration at this time..

On request by Senator Davis, granted by unanimous consent, **S 1203** retained its place on the Third Reading Calendar.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 81**, as amended in the Senate, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

H 81, as amended in the Senate, was read the third time at length and placed before the Senate for final consideration. Senator Fulcher arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 81**, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 56**, as amended in the Senate, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

H 56, as amended in the Senate, was read the third time at length and placed before the Senate for final consideration. Senator Gannon arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 56**, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 28**, as amended in the Senate, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

H 28, as amended in the Senate, was read the third time at length and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 28**, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **H 171**, as amended in the Senate, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

H 171, as amended in the Senate, was read the third time at length and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 171**, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

Suspension of Rules

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1016**, as amended in the House, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

S 1016, as amended in the House, was read the third time at length and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the Acting President declared **S 1016**, as amended in the House, passed, title was approved, and the bill was referred to the Judiciary and Rules Committee for enrolling.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:15 p.m. until the hour of 3 p.m. of this day.

**RECESS
AFTERNOON SESSION**

The Senate reconvened at 3 p.m., pursuant to recess, President Pro Tempore Geddes presiding.

Roll call showed all members present except Senator Bastian, absent and formally excused by the Chair; and Senators Burkett, Corder, and Stennett, absent and excused.

Prior to recess the Senate was at the Sixth Order of Business, Reports of Standing Committees.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

March 15, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Roger L. Jones of Rupert, Idaho, was appointed as a member of the Idaho State Lottery Commission to serve a term commencing January 1, 2007, and expiring January 1, 2012.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

March 14, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

S 1002 and S 1067

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

March 15, 2007

Mr. President:

I transmit herewith **H 301, H 302, H 303, H 304, H 305, H 306, H 307, H 308, H 309, H 310, H 311, H 312, H 313, and H 314** which have passed the House.

JUKER, Chief Clerk

H 301, H 302, H 303, H 304, H 305, H 306, H 307, H 308, H 309, H 310, H 311, H 312, H 313, and H 314 were filed for first reading.

March 15, 2007

Mr. President:

I return herewith **SJM 106** which has passed the House.

JUKER, Chief Clerk

SJM 106 was referred to the Judiciary and Rules Committee for enrolling.

March 15, 2007

Mr. President:

I transmit herewith Enrolled **H 174**, as amended, **H 194, H 31, H 139, H 266, H 269, H 218, H 277, H 278, and H 279** for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **H 174**, as amended, **H 194, H 31, H 139, H 266, H 269, H 218, H 277, H 278, and H 279** and ordered them returned to the House.

March 15, 2007

Mr. President:

I transmit herewith Enrolled **H 180, H 183, H 121, H 157, HCR 8, H 158, H 4, H 102, H 135, H 136, H 202, H 181, H 189, H 197, H 198, H 79**, as amended in the Senate, **H 85**, as amended in the Senate, **HCR 28, HCR 19, HCR 15, H 190, H 257, H 258, H 259, H 124, and H 125**, as amended, for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **H 180, H 183, H 121, H 157, HCR 8, H 158, H 4, H 102, H 135, H 136, H 202, H 181, H 189, H 197, H 198, H 79**, as amended in the Senate, **H 85**, as amended in the Senate, **HCR 28, HCR 19, HCR 15, H 190, H 257, H 258, H 259, H 124, and H 125**, as amended, and ordered them returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

Senators Burkett and Stennett were recorded present at this order of business.

H 301, H 302, H 303, H 304, H 306, H 307, H 308, H 309, H 310, H 311, H 312, H 313, and H 314, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

H 305, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

Suspension of Rules

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1181**, as amended, were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

S 1181, as amended, was read the third time at length and placed before the Senate for final consideration. Senator Jorgenson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Darrington, Davis, Fulcher, Gannon, Geddes, Hammond, Heinrich, Hill, Jorgenson, Keough, Langhorst, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stennett. Total - 28.

NAYS--Goedde, Kelly, Little, Stegner, Werk. Total - 5.

Absent and excused--Bastian, Corder. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1181**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

Suspension of Rules

Senator Corder was recorded present at this order of business.

The President Pro Tempore announced that **S 1203**, having been held and the rules having previously been suspended, was now before the Senate. **S 1203** was read the third time at length and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Stennett disclosed a possible conflict of interest under applicable law.

During debate of **S 1203**, Senator Werk stated "By God, we will throw the book at them." Senator Werk's words were challenged under the provisions of Senate Rule 41(B) by Senator Darrington, Chairman of the Senate Judiciary and Rules Committee, for using "exceptional words." The Chair ruled that the words spoken were exceptional and in violation of Senate Rule 41(B). The Chair further stated that Senator Werk was not recognized to speak again regarding **S 1203** until all others had an opportunity to speak. Senator Werk was then granted recognition to speak and offered an apology to the Senate for the exceptional words spoken.

The question being, “Shall **S 1203** pass?”

Roll call resulted as follows:

AYES--Andreason, Bair, Broadsword, Cameron, Darrington, Davis, Goedde, Hammond, Heinrich, Hill, Keough, Lodge, McGee, McKague, Richardson, Siddoway. Total - 16.

NAYS--Bilyeu, Burkett, Coiner, Corder, Fulcher, Gannon, Geddes, Jorgenson, Kelly, Langhorst, Little, Malepeai, McKenzie, Pearce, Schroeder, Stegner, Stennett, Werk. Total - 18.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared that **S 1203** had failed to pass the Senate and ordered the bill filed in the office of the Secretary of the Senate.

On request by Senator Cameron, granted by unanimous consent, **H 280** retained its place on the Third Reading Calendar for one legislative day.

H 154 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators McKenzie and Fulcher arose as co-sponsors of the bill and opened the debate. The question being, “Shall the bill pass?”

Roll call resulted as follows:

AYES--Andreason, Bair, Broadsword, Cameron, Coiner, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Jorgenson, Keough, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Siddoway, Stegner. Total - 24.

NAYS--Bilyeu, Burkett, Corder, Kelly, Langhorst, Malepeai, Schroeder, Stennett, Werk. Total - 9.

Absent and excused--Bastian, Hill. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **H 154** passed, title was approved, and the bill ordered returned to the House.

On request of Senator Stennett, granted by unanimous consent, the following Minority Report was ordered filed in the office of the Secretary of the Senate and was ordered spread upon the pages of the journal pursuant to Senate Rule 21(B):

MINORITY REPORT – **H 154**
DISSENTING TO THE RECOMMENDATION OF THE
SENATE STATE AFFAIRS COMMITTEE
REGARDING **H 154**

We, the undersigned do respectfully dissent from the recommendation of the Senate State Affairs Committee with regard to House Bill 154 – Energy Facilities. We submit this Minority Report based on the following facts and conclusions:

1. The selection of a particular site for the construction and operation of a large electric generation facility in Idaho will

have a significant impact upon the health, safety and welfare of the population in the immediate and adjoining communities, the location and growth of industry and the use of the natural resources of the state.

2. Site selection for large electric generation facilities is a matter of statewide concern.
3. Current Idaho law provides a piecemeal process for the selection of a site for a large electricity generation facility. The existing law gives several state and local agencies authority to ensure that a proposed project complies with certain aspects of Idaho law: the Idaho Department of Water Resources ensures the developer acquires a water rights permit or transfer; the Department of Environmental Quality ensures the developer complies with permitting requirements for wastewater discharge, solid waste disposal, and air pollution emissions; the local county commissioners or city council where the facility is proposed to be located ensures that the proposed use is compatible with that jurisdiction's zoning and land use laws; and, for utility-owned generation, the Public Utilities Commission ensures the project qualifies for a certificate of public convenience and necessity. However, the current process does not balance the cumulative and comprehensive impacts and benefits of a proposal. The citizens of this state – and the entities proposing potential generation facilities – deserve a reasoned, predictable, effective method of establishing such sites. Idaho also needs an energy facility siting process that recognizes the cross-jurisdictional impacts of the decision, effectively provides for broad public participation and considers public opinion in the end result.
4. The undersigned believe that the Legislature should recognize the significant impact of large electric generation facilities, and ensure through available and reasonable methods that the location and operation of such facilities will produce minimal adverse effects on the health and safety of Idaho's citizens and the environment, and provide maximum benefit to the economy and ratepayers of Idaho. The decision making process should seek courses of action that balance the demands for electric generation facility location and operation with the broad interests of the public. **The existing Idaho law has proven inadequate for this purpose and HB 154 does not solve the problem.**
5. House Bill 154 provides that a city or county may, but is not required to, request assistance from a state agency on the evaluation of the “environmental attributes and impacts” of the construction or operation of a proposed facility. The bill provides that the city or county may, but is not required to, consider the results of the request for assistance in making siting decisions. Existing Idaho statutes and rules were developed prior to the wholesale deregulation of electric power. HB154 does not address solve the particular regulatory gaps with regard to merchant power plants.
6. The undersigned believe that with regard to large energy facilities, Idaho – like many other states – should adopt a mandatory siting process to be implemented statewide, and to include representation from the local, affected jurisdictions. Such provisions are imperative to protect the interests of the citizens of this State.

Over the objection of the undersigned, a majority of the members of the State Affairs Committee voted to recommend the passage of House Bill 154. For the reasons set forth above, the undersigned dissent to the recommendation of the majority.

Dated this 15th day of March, 2007.

/s/ Clint Stennett
/s/ Edgar Malepeai

H 177 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Cameron, Coiner, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Hill, Jorgenson, Kelly, Keough, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stennett. Total - 26.

NAYS--Burkett, Corder, Heinrich, Langhorst, Little, Malepeai, Stegner, Werk. Total - 8.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 177** passed, title was approved, and the bill ordered returned to the House.

H 204 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Corder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--McKague. Total - 1.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 204** passed, title was approved, and the bill ordered returned to the House.

H 215 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Siddoway arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 215** passed, title was approved, and the bill ordered returned to the House.

H 140 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Werk arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 140** passed, title was approved, and the bill ordered returned to the House.

At this time the Senate considered the Consent Calendar:

H 86 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Coiner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 86** passed, title was approved, and the bill ordered returned to the House.

H 87 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Little arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 87** passed, title was approved, and the bill ordered returned to the House.

H 182 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Schroeder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 182** passed, title was approved, and the bill ordered returned to the House.

H 231 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Gannon arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 231** passed, title was approved, and the bill ordered returned to the House.

H 232 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Pearce arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 232** passed, title was approved, and the bill ordered returned to the House.

H 238 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 238** passed, title was approved, and the bill ordered returned to the House.

H 147 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 147** passed, title was approved, and the bill ordered returned to the House.

H 191 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 191** passed, title was approved, and the bill ordered returned to the House.

H 110 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Little arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Bastian. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 110** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, bills **S 1138** and **S 1180** were placed at the head of Third Reading Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 5:30 p.m. until the hour of 9:30 a.m., Friday, March 16, 2007.

ROBERT L. GEDDES, President Pro Tempore

Attest: RUSTI HORTON, Assistant Secretary